

Alabama Department of Revenue Policy

Decoupling of Alabama Income Tax Law from the Bonus Depreciation and Additional Section 179 Provisions of the Federal Economic Stimulus Act of 2008

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I. Alabama Act Number 2008-549.

Act Number 2008-549, passed by the Alabama Legislature during the first 2008 Special Session, decoupled Alabama income tax laws from the bonus depreciation and additional Section 179 provisions of the federal Economic Stimulus Act of 2008 (PL 110-185).

II. Alabama Department of Revenue Information Release Dated July 15, 2008.

On July 15, 2008, the Alabama Department of Revenue issued an information release alerting taxpayers that Act 2008-549 had passed and that Alabama income tax laws have been decoupled from the bonus depreciation and additional Section 179 provisions of the federal Economic Stimulus Act of 2008. The information release stated: “...Alabama income tax laws will not follow the 2008 federal law change, but will continue to be tied to the federal depreciation rules without consideration of the changes implemented by the Economic Stimulus Act of 2008...”

III. Alabama Business Income Tax Forms and Instructions.

1. The Alabama Department of Revenue developed the TY 2008 forms and instructions for Alabama business income tax returns to accommodate the special reporting required by the decoupling from the additional federal Section 179 expense deduction and the federal special bonus depreciation rules. Taxpayers are urged to carefully read the forms and instructions, as there are major changes in the TY2008 Alabama forms. The decoupling can also impact the preparation of certain TY 2007 Alabama business income tax returns, which have not been revised to accommodate special reporting required by the law change.
2. For purposes of this guidance, an Alabama business income taxpayer would include an individual filing an Alabama individual income tax return, a corporation filing an Alabama corporate income tax return, or a pass-through-entity filing an Alabama income tax return.
3. For purposes of this guidance and Alabama business income tax form preparation, **Alabama-allowed depreciation** means depreciation computed in accordance with the federal depreciation rules without consideration of the changes made to Section 168 by the federal Economic Stimulus Act of 2008.
4. At no point in time should the accumulated Alabama-allowed depreciation for an asset exceed the total amount claimed on the federal returns as special bonus depreciation; federal regular MACRS depreciation; and, the additional federal Section 179 deduction - for the same asset. The federal bonus depreciation and the additional Section 179 deduction are both allowed only by the federal Economic Stimulus Act of 2008.
5. Electing on the federal income tax return to expense Section 179 property binds the taxpayer to Section 179 treatment for the same property on the Alabama return. There is no provision in Alabama income tax law for making a separate Alabama Section 179 election. As a result, the taxpayer may also be required to separately consider the maximum Alabama Section 179 deduction, the Alabama Section 179 Investment Limitation, and the Alabama Section 179 Taxable Income Limitation.
6. If federal bonus depreciation is claimed for qualifying property on the federal income tax return, only Alabama-allowed depreciation will be allowed on the Alabama income tax return for the qualifying property – Alabama Section 179 treatment cannot be applied to the qualifying property unless the election is made on the federal income tax return.

III. Alabama Business Income Tax Forms and Instructions (continued).

7. Assuming that the federal Section 179 election is not made on the federal income tax return, then electing out of the federal bonus depreciation with respect to any class of property on the federal income tax return will generally result in federal depreciation on the class of property equal to Alabama-allowed depreciation.
8. See also Section 40-18-18.1, Code of Alabama 1975, concerning the referencing of federal Internal Revenue Code sections in Alabama income tax law. Generally, the principles and the required computations of Internal Revenue Code sections referenced in Alabama income tax law are applied to amounts determined in accordance with Alabama income tax law.
9. See also Section 40-18-33, Code of Alabama 1975, concerning the computation of Alabama corporate taxable income and its relationship to federal corporate taxable income. Federal corporate taxable income for a tax period is the starting point in computing Alabama corporate taxable income for the same tax period. Alabama income tax law specifies certain adjustments to the federal corporate taxable income for a tax period, but none of the stated adjustments allow for a separate Alabama Section 179 election or deduction and none of the stated adjustments allow for differing depreciation treatment (other than Alabama Act Number 2008-549). In computing federal corporate taxable income for a tax period a federal Section 179 election can be made, if the election is made the election is binding for the Alabama income tax return. In computing federal corporate taxable income for certain tax periods a taxpayer may claim bonus depreciation, if bonus depreciation is claimed on a TY 2007 or TY 2008 federal return then only Alabama-allowed depreciation is allowed for the property.

IV. TY2008 – Calendar Year Taxpayers.

Additional Federal Section 179 Deduction

1. Generally, calendar year Alabama taxpayers will be allowed only Alabama-allowed depreciation on the property that qualifies for and for which the additional Section 179 expense deduction was claimed on the federal return (as allowed by the federal Economic Stimulus Act of 2008). The amount that the additional federal Section 179 deduction exceeds the amount of Alabama-allowed depreciation for the same qualifying property is added back to federal income to compute Alabama-based income. See the instructions for Alabama TY 2008 business income tax returns for more specific guidance.
2. The Alabama-allowed depreciation is computed in full for TY2008, even if a portion of the additional federal Section 179 expense deduction is suspended and carried forward due to the federal Section 179 Taxable Income Limitation.

IV. TY2008 – Calendar Year Taxpayers. Additional Federal Section 179 Deduction (continued)

3. If the additional federal Section 179 expense deduction is suspended and carried forward to a subsequent tax year due to the federal Section 179 Taxable Income Limitation and is deducted in a subsequent tax year, the amount deducted on the federal return for the subsequent tax year must be added back to federal income to compute Alabama-based income.
4. In tax years subsequent to TY 2008, taxpayers will be allowed a deduction in computing Alabama-based income in the amount of Alabama-allowed depreciation for the property that qualified for the additional federal Section 179 deduction in TY2008, and for which a deduction was claimed on the TY 2008 federal return.
5. The decoupling of Alabama income tax laws from the Section 179 benefits of the federal 2008 Economic Stimulus Act creates a need to consider separate Alabama Section 179 limitations which will differ from the federal Section 179 limitations, as follows:
 - (a) For TY 2008, the maximum annual Section 179 deduction for Alabama income tax purposes is \$128,000, and taxpayers must be able to identify the assets qualifying for both the maximum federal Section 179 deduction and the maximum Alabama Section 179 deduction, if the amounts of the two deductions differ.
 - (b) For TY 2008, the Alabama Section 179 Investment Limitation is \$510,000.
 - (c) For TY 2008, the Alabama Section 179 Taxable Income Limitation is the total amount of Alabama taxable income derived from the active conduct of any trade or business, including salaries and wages, during the taxable year. Any amount of Alabama Section 179 deduction disallowed as a result of the Alabama Section 179 Taxable Income Limitation is carried forward. Any Alabama amounts carried forward will be subject to the same restrictions as are found in federal income tax law, except they will be computed using Alabama amounts.

Bonus Depreciation

6. Generally, in TY 2008 calendar year Alabama taxpayers will be allowed only Alabama-allowed depreciation on the property that qualifies for and for which bonus depreciation was claimed on the federal return (as allowed by the federal Economic Stimulus Act of 2008). The amount that the federal bonus depreciation plus the regular MACRS deductions for the same qualifying property exceeds the amount of Alabama-allowed depreciation for the same qualifying property is added back to federal income to compute Alabama-based income. In tax years subsequent to TY 2008, taxpayers will be allowed a deduction in the amount of Alabama-allowed depreciation for the qualifying bonus depreciation property.

IV. TY2008 – Calendar Year Taxpayers. Additional Federal Section 179 Deduction (continued)

Disposition of Qualifying Property

7. Generally, if the federal bonus depreciation or the federal additional Section 179 expense deduction is taken for an item of qualifying property and in a subsequent tax year the qualifying property is disposed of and the item is not fully depreciated for both federal and Alabama income tax purposes, the federal and Alabama tax basis for the qualifying property will differ. As a result, the federal gain or loss resulting from the disposition will differ. The resulting difference in the federal and Alabama gain or loss must be properly reported on the Alabama business income tax return.

Recapture of Depreciation and Section 179 Expense

8. Generally, if the federal bonus depreciation is taken for an item of qualifying property and in a subsequent tax year the bonus depreciation is required to be recaptured on the federal income tax return for the subsequent tax year, the recaptured depreciation for federal income tax purposes may differ from the amount of depreciation recaptured for Alabama income tax purposes. The amount of the difference in federal and Alabama recaptured depreciation must be properly reported on the Alabama business income tax return.

9. Generally, if the federal additional Section 179 expense deduction is taken for an item of qualifying property and in a subsequent tax year the additional Section 179 expense deduction is required to be recaptured on the federal income tax return for the subsequent tax year, the recaptured Section 179 expense deduction for federal income tax purposes may differ from the depreciation recaptured for Alabama income tax purposes. The amount of the difference in federal and Alabama recaptured amounts must be properly reported on the Alabama business income tax return.

NOTE.

Generally the requirements described above for TY 2008 – Calendar Year Taxpayers will also apply to Alabama business income taxpayers filing fiscal year returns.

V. Tax Year 2007 Fiscal Year Taxpayers.

1. This portion of the document is intended to provide fiscal year taxpayers with guidance in preparing the TY2007 Alabama business income tax returns when the tax year includes a portion of Calendar Year 2008. Fiscal year filers are those taxpayers that have elected to use an accounting period of 12 month ending on the last day of any month other than December. These taxpayers may have filed a TY 2007 Alabama business income tax return (Form 20C, 20C-C, 20S or 65) that included some period of time in the 2008 calendar year. For instance, a TY2007 Alabama business income tax might report income for a taxpayer with a tax year beginning February 1, 2007, and ending January 31, 2008.
2. The federal Economic Stimulus Act of 2008 allows for a 50 percent bonus depreciation deduction for qualifying MACRS property acquired after December 31, 2007, and placed in service before January 1, 2009. The Alabama Legislature passed Act Number 2008-549 during the first 2008 Special Session decoupling Alabama income tax laws from the special bonus depreciation provisions of the federal Economic Stimulus Act of 2008.
3. Some Alabama fiscal year taxpayers may have placed in service certain assets during 2008 that qualified for the special bonus depreciation provided for in the Federal Economic Stimulus Act of 2008. The federal bonus depreciation may have been deducted on the TY 2007 Alabama business income tax return. As a result of the decoupling of Alabama income tax laws from the special bonus depreciation provisions, those taxpayers were only entitled to the Alabama-allowed depreciation on the property qualifying for the federal bonus depreciation.
4. If the special federal bonus depreciation was taken on the TY 2007 Alabama business income tax return, the return should be amended so that only the Alabama-allowed depreciation is claimed for the qualifying property. The amount that the federal bonus depreciation plus the regular MACRS deductions for the same qualifying property exceeded the amount of Alabama-allowed depreciation for the same qualifying property should be added back to compute Alabama-based income, as follows:

Alabama Form 20C	Schedule A, line 7
Alabama Form 20S	Schedule A, line 9
Alabama Form 65	Schedule A, line 8
Alabama Form 20C-C	Schedule A, line 7, proforma Form 20C

Form 20C-C filers should report the required income addition on the proforma Forms 20C for each applicable member included in the consolidated filing, Schedule A, line 7. If the business income tax form allows for a brief description to be entered, the taxpayer should enter, “Add Back – Bonus Depreciation” as a description.

VI. Tax Year 2008 Fiscal Year Taxpayers.

1. Decoupling from the provisions of the Federal Economic Stimulus Act of 2008 also created additional reporting requirements for TY 2008 fiscal year filers that have not been addressed on the business income tax returns (Form 20C, 20C-C, 20S and 65). If a fiscal year taxpayer was required on the Alabama TY 2007 fiscal year return to add back to Alabama income the amount of special bonus depreciation taken as a deduction on the federal return, the taxpayer will be allowed a deduction on the TY 2008 Alabama business income tax return in the amount of Alabama-allowed depreciation on the property qualifying for the federal bonus depreciation. Since lines were not specifically added to the business income tax returns for this deduction, the deduction can be taken in accordance with the following:

Form 20C:	Schedule A, line 21
Form 20S:	Schedule A, line 8 (enter a negative value)
Form 65:	Schedule A, line 8 (enter a negative value)
Form 20C-C:	Schedule A, line 21, proforma Form 20C

Form 20C-C filers should claim any deduction from income on the proforma Forms 20C for the applicable member included in the consolidated filing, Schedule A, line 21. If the business income tax form allows for a brief description to be entered, the taxpayer should enter, “Additional Depreciation – 2008 Bonus Depreciation” as a description.

VII. Alabama Treatment of Other Items Impacted by the Federal Economic Stimulus Act of 2008.

	<u>Federal Amount</u>	<u>Alabama Amount</u>
Luxury Car Limits:		
First Year Depreciation Limit for passenger autos for TY 2008	\$10,960	\$2,960
First Year Depreciation Limit for trucks/vans for TY 2008	\$11,160	\$3,160